

ADDITIONAL JUDICIAL DISTRICT IN OKLAHOMA

FEBRUARY 4, 1925.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. YATES, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 9811]

The Committee on the Judiciary, to whom was referred the bill H. R. 9811, after hearing and consideration, report favorably thereon with an amendment, and recommend that the bill as amended do pass.

The committee amendment is as follows:

Strike out all after the enacting clause and insert the following:

That section 101 of an act entitled, "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, be, and it hereby is, amended to read as follows:

"SEC. 101. The State of Oklahoma is divided into three judicial districts, to be known as the northern, the eastern, and the western districts of Oklahoma. The territory embraced on January 1, 1925, in the counties of Craig, Creek, Delaware, Hughes, Mayes, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Rogers, Seminole, Tulsa and Washington, as they existed on said date, shall constitute the northern district of Oklahoma. Terms of the United States District Court for the northern district of Oklahoma shall be held at Tulsa on the first Monday in January, at Vinita on the first Monday in March, at Okmulgee on the first Monday in April, and at Pawhuska on the first Monday in May, and at Bartlesville on the first Monday of June, in each year: *Provided*, That suitable rooms and accommodations for holding court at Okmulgee, Pawhuska and Bartlesville are furnished free of expense to the United States. The eastern district of Oklahoma shall include the territory embraced on the 1st day of January, 1925, in the counties of Adair, Atoka, Bryan, Cherokee, Choctaw, Coal, Carter, Garvin, Grady, Haskell, Johnston, Jefferson, Latimer, LeFlore, Love, McClain, Muskogee, McIntosh, McCurtain, Murray, Marshall, Pittsburg, Pushmataha, Pontotoc, Stephens, Sequoyah, and Wagoner. Terms of the district court for the eastern district shall be held at Muskogee on the first Monday in January, at Ada on the first Monday in April, at Hugo on the second Monday in May, at South McAlester on the first Monday in June, at Ardmore on the first Monday in October, and at Chickasha on the first Monday in November, and at Poteau on the first Monday in December, and at Pauls Valley on the first Monday in July in each year: *Provided*, That suitable rooms and accommodations for holding said court at Ada, Hugo, Poteau, and Pauls Valley are furnished free of expense to the United States. The western district of Oklahoma shall include the territory embraced on the 1st day of January, 1925, in the counties of Alfalfa, Beaver,

Beckham, Blaine, Caddo, Canadian, Cimarron, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Garfield, Grant, Greer, Harmon, Harper, Jackson, Kay, Kingfisher, Kiowa, Lincoln, Logan, Major, Noble, Oklahoma, Payne, Pottawatomie, Roger Mills, Texas, Tillman, Washita, Woods, and Woodward. The terms of the district court for the western district shall be held at Guthrie on the first Monday in January, at Oklahoma City on the first Monday in March, at Mangum on the first Monday in May, at Enid on the first Monday in June, at Lawton on the first Monday in September, and at Woodward on the first Monday in November in each year: *Provided*, That suitable rooms and accommodations for holding court at Mangum and Woodward are furnished free of expense to the United States. The clerk of the district court for the northern district shall keep his office at Tulsa, the clerk of the district court for the eastern district shall keep his office at Muskogee and shall maintain an office in charge of a deputy at Ardmore, the clerk for the western district shall keep his office at Guthrie and shall maintain an office in charge of himself or his deputy at Oklahoma City."

SEC. 2. That the present senior judge of the eastern district of Oklahoma be, and he is hereby, assigned to hold said court in the said eastern district, and shall exercise the same jurisdiction and perform the same duties within the said district as he exercised and performed within his district prior to the passage of this act. That the present judge of the western district of Oklahoma be, and he is hereby, assigned to hold said court in the western district of Oklahoma, and shall exercise the same jurisdiction and perform the same duties as he exercised and performed within his district prior to the passage of this act. That the present junior judge of the eastern district of Oklahoma be, and he is hereby, assigned to hold said court in the said northern district, and shall exercise the same jurisdiction and perform the same duties within the said district as he exercised and performed within his district prior to the passage of this act. Each of said judges and courts shall in other respects have all the power and authority, civil, criminal, equitable, or otherwise which is conferred by law generally upon the district courts of the United States and the judges thereof.

SEC. 3. The President, by and with the advice and consent of the Senate, shall appoint for said northern district of Oklahoma a district judge upon the death, disability, or retirement of the district judge who is hereby assigned to said northern district.

SEC. 4. That the President, by and with the advice and consent of the Senate, shall appoint for said northern district of Oklahoma a marshal and a district attorney. A clerk and deputy clerks shall be appointed and may be removed in the manner provided by law.

SEC. 5. That the jurisdiction and authority of the courts and officers of the western district of Oklahoma, and of the courts and officers of the eastern district of Oklahoma as heretofore divided between them by the order of the senior judge of the Circuit Court of Appeals for the Eighth Circuit of the United States, over the territory embraced within said northern district of Oklahoma shall continue as heretofore until the organization of the district court of said northern district, and thereupon shall cease and determine, save and except in so far as the authority of the junior judge of said eastern district is continued in him as judge of said northern district, and save and except as to the authority expressly conferred by law on said courts, judges, or officers, or any of them, to commence and proceed with the prosecution of crimes and offenses committed therein prior to the establishment of the said northern district, and save and except as to any other authority expressly reserved to them or any of them under any law applicable in the case of the creation or change of the divisions or districts of district courts of the United States.

SEC. 6. Any party to any civil action, suit, or proceeding, including proceedings in bankruptcy, which is pending in the said eastern or western district and the prescribed venue of which would have been in said northern district had such district been constituted at the time such action, suit, or proceeding was instituted, may, by filing notice of such desire in the office of the clerk of such eastern or western district, as the case may be, cause such action, suit, or proceeding to be transferred to said northern district, and upon the filing of such notice the cause shall proceed in the said northern district as though originally brought therein. The clerk in whose office such notice may be filed shall forthwith transmit all the papers and documents in his court pertaining to such cause to the clerk of said northern district and he shall also, with all reasonable dispatch, prepare and transmit to such last-named clerk a certified transcript of the record of all orders, interlocutory decrees, or other entries in such cause,

with his certificate under the seal of the court that the papers sent are all that were on file in said court belonging to the cause. For the performance of his duties under this section the clerk so transmitting and certifying such papers and records shall receive the same fees as are now allowed by law for similar services to be taxed in the bill of costs and regularly collected with the other costs the cause; and such transcript, when so certified and received, shall henceforth constitute a part of the record in the cause in the court to which the transfer shall be made. With such transcript shall be remitted all deposits in the hands of the clerk to the credit or account of such cause. The clerk receiving such transcript and original papers shall file the same. In case the permissible prescribed venue of any such action, suit, or proceeding would, at the option of the plaintiff, have been in either the said eastern district or in the said western district, though said northern district had then been constituted, then such suit, action, or proceeding shall not be removed to said northern district except upon consent of all of the parties thereto, which consent shall be filed with the clerk in lieu of the notice of transfer above specified and shall have the same effect.

The State of Oklahoma with its population (in 1920) of 2,000,000, has heretofore had two judicial districts, the eastern and western, respectively. The increase of business in the State has been so great that Congress some time ago provided that there should be two judges for the eastern district and for a number of years, the two judges have been presiding in that eastern district.

The present bill provides that there shall be three districts in the State instead of two. The western district to remain almost as it is and the eastern district, that is, the eastern half of the State, to be divided into two districts to be called the eastern and northern districts, respectively. This bill was referred to subcommittee No. 3 of this committee and an extensive hearing was had. There appeared before the subcommittee in support of the bill Senator Harreld and Congressman Howard, of Oklahoma, and Judge Mason, practicing lawyer of Tulsa. There appeared in opposition to the bill, Congressmen Hastings, Carter, McKeown, and Thomas, of Oklahoma. There appeared in the evidence a communication from the Attorney General of the United States reading as follows:

WASHINGTON, D. C., January 19, 1925.

HON. GEORGE S. GRAHAM,

Chairman Committee on the Judiciary, House of Representatives.

MY DEAR MR. CHAIRMAN: Permit me to acknowledge receipt of your letter of January 12, 1925, inclosing a copy of H. R. 9811, entitled "A bill to amend section 101 of an act entitled 'An act to codify, revise, and amend the laws relating to the judiciary,' approved March 3, 1911."

The views of the judges and United States attorneys in the eastern and western districts of Oklahoma were requested, and I am transmitting herewith copies of such telegrams as have been received to date. They indicate that it might be desirable to change the boundaries of the three districts as fixed in the bill. I believe that it is advisable to establish a new district in the State of Oklahoma, and would favor such a division as would provide for an equal division of the business among the three judges and permit all possible economy in travel of officials, witnesses, and jurors.

I would suggest that some changes in phraseology be made, such as the use of the future tense for the present tense in line 10, page 1, and the use of the past tense for the present tense in line 21, page 3, and line 6, page 4. The provision for the compensation of the judge as found in lines 10, 11, 12, and 13, of page 4, section 3, is unnecessary, as section 2 of the Judicial Code, as amended, provides for compensation for all judges.

Section 4 could be entirely eliminated, as section 767 and section 776 of the Revised Statutes provide for the appointment of a marshal and district attorney in each district, and sections 3 and 4 of the Judicial Code, as amended, provide for the appointment of a clerk and his deputies. The duties of the marshal, district attorney, and clerk are also set out in existing law, hence section 5 would seem to be unnecessary. The provision for deputy clerks and their residence is now

fixed in section 4 of the Judicial Code, and the department believes that it is best to leave such matters to the discretion of the district judges as provided in said section 4. Section 11 would not seem to be necessary. For the same reason the department deems section 6 of the Judicial Code preferable to section 11 of the bill.

Respectfully,

HARLAN F. STONE, *Attorney General.*

There also appeared telegrams from the three judges now presiding in Oklahoma, namely, Judge R. L. Williams, of Muskogee; Judge Cotteral, of Guthrie; and Judge Franklin E. Kennamer, of Tulsa. These judges did not utter an opinion as to the advisability of the new district, but contented themselves with making suggestions as to the boundary line; in other words, as to what counties should be included within the respective districts.

None of the judges expressed any dissatisfaction with the main purpose of the bill; in other words, made no objections.

Some degree of confusion or overlapping in the work under the present arrangement owing to the fact that there are two judges in one district, has in the opinion of some of the witnesses, interfered somewhat with the entire harmony of the present arrangement and has made the division into new districts desirable.

Those provisions of the amendment referring to places of holding court, do not contemplate new arrangements with one or two exceptions, but are simply a reenactment of the section of the Judicial Code which is hereby amended.

All of which is respectfully submitted.

